



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,277	10/01/2001	Robert Rasmussen	7578	6795

7590 12/13/2004

WILLIAM LIGHTBODY
LIGHTBODY LAW OFFICE
ATRIUM SUITE 100
32600 FAIRMONT BLVD.
PEPPER PIKE, OH 44124

EXAMINER

STORMER, RUSSELL D

ART UNIT	PAPER NUMBER
----------	--------------

3617

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/967,277

Applicant(s)

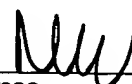
RASMUSSEN, ROBERT

Examiner

Russell D. Stormer

Art Unit

3617



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 26-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,5,15,17,32,33,35,40 and 45-50 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-14,16,18-24,26-31,34,36-39,41,43,44,51 and 52 is/are rejected.
- 7) ☒ Claim(s) 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 47, 51, and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In each of claims 47, 51, and 53, the term “preferably” is objected to as indefinite. The term “preferably” sets forth an indefinite range of measurements for the dimensions of the shoe, and must be deleted.

Claim Objections

3. Claim 38 is objected to because of the following informalities: The term “typically” is indefinite as it does not define a clear and definite range of the Rockwell hardness and infers that other ranges may also be included.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3617

5. Claims 1, 2, 6, 11, 12, 14, 18, 22, 23, 24, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Ostberg et al.

Ostberg et al (previously cited) teaches a grouser show comprising a pad and a bar attached thereto. The bar has a straight center section 5 and bent portions 6 which form wings.

With respect to claims 18, 22, and 23, the method of forming and attaching the bar to the pad is given no patentable weight in the product claim.

6. Claims 1, 2, 6, 7, 11, 12, 13, 14, 18, 19, 22, 23, 24, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Skanes et al.

Skanes et al (newly cited) teaches a grouser show for a track comprising a pad 10a and a grouser bar 54 which has a straight center section and a pair of wings disposed at angles to the center section. The grouser is welded to the pad.

With respect to claims 11, 18, 22, and 23, the method is given no patentable weight in the product claim.

7. Claim 26 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rasmussen (previously cited, newly applied).

When the wear bar is worn down, it can be replaced.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skanes et al in view of Ratkowski.

For the center height of the bar of Skanes et al to be higher than the height of the ends would have been obvious as taught by Ratkowski (see the ends 20C of the bar 20) in order to provide traction as needed.

10. Claims 8, 9, 10, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skanes et al in view of Riegel et al.

Riegel teaches a method of selectively hardening portions of a track pad to increase wear resistance. The bar 12 hardened such that it is similar to the hardness of the pad where the two are connected, but harder in areas further from the joint. From this teaching it would have been obvious to harden the bar of Skanes et al or portions thereof to increase the wear resistance of the bar.

The hardness to which the bar is hardened to is considered to be an obvious mechanical expedient and therefore the specific hardness would have been easily determined by those of ordinary skill in the art based on the intended use of the track, the size of the vehicle, etc.

11. Claims 28, 29, 30, 34, 36, 39, 41, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skanes et al.

The method of manufacturing the grouser show, including bending the ends of the bar to form wings, and attaching the bar to the pad, would have been obvious in light of the structure of the shoe assembly of Skanes et al.

With respect to claims 34 and 41 the angle of the bend in the bar would have been an obvious mechanical expedient based on the intended use of the grouser and the vehicle to which it is used on.

12. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Skanes et al in view of Ratkowski.

For the ends of the wear bar of Skanes et al to be sheared would have been obvious as taught by Ratkowski (Note ends 20C of the bar 20) in order to shape the profile of the wear bar.

13. Claims 37, 38, 43, 44, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skanes et al as applied to claims 36 and 39 above, and further in view of Riegel et al.

Riegel teaches a method of selectively hardening portions of a track pad to increase wear resistance. The bar 12 hardened such that it is similar to the hardness of the pad where the two are connected, but harder in areas further from the joint. From this teaching it would have been obvious to harden the bar of Skanes et al or portions thereof to increase the wear resistance of the bar.

The hardness to which the bar is hardened to is considered to be an obvious mechanical expedient and therefore the specific hardness would have been easily

determined by those of ordinary skill in the art based on the intended use of the track, the size of the vehicle, etc.

Allowable Subject Matter

14. Claim 42 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claim 52 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

16. Claims 3, 5, 15, 17, 32, 33, 35, 40, and 45-50 are allowable over the prior art of record.

Response to Arguments

17. Applicant's arguments with respect to claims 1, 6, 7, 11, 13, 14, 16, 18, 19, 20, 22, 23, 24, 27, 28, 29, 34, 36, 39, and 51 have been considered but are moot in view of the new grounds of rejection.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show additional track shoe assemblies having grouser bars.


Art Unit: 3617

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (703) 308-3768. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/9/04


RUSSELL D. STORMER
PRIMARY EXAMINER 12/9/04